1	ENGROSSED
2	COMMITTEE SUBSTITUTE
3	FOR
4	H. B. 2740
5 6 7	(By Delegates Manypenny, Doyle, Mahan, Guthrie, Canterbury, Iaquinta, Barker, Hartman, Brown and Hatfield)
8	(Originating in the House Committee on the Judiciary)
9	[February 21, 2012]
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11	A BILL to amend the Code of West Virginia, 1931, as amended, by
12	adding thereto a new section, designated $\$36-4-19$, relating to
13	making covenants and other restrictions that restrict the
14	installation or use of solar energy systems unenforceable;
15	defines terms; and provides exceptions thereto.
16	Be it enacted by the Legislature of West Virginia:
17	That the Code of West Virginia, 1931, as amended, be amended
18	by adding thereto a new section, designated §36-4-19, to read as
19	follows:
20	ARTICLE 4. COVENANTS.
21	<u>§36-4-19. Solar energy covenants unenforceable; penalty.</u>
22	(a) It is the policy of the state to promote and encourage
23	the residential and commercial use of solar energy systems and to
24	remove obstacles thereto to promote energy efficiency and pollution
25	reduction. Therefore, upon the effective date of this section any

1 covenant, restriction, or condition contained in any deed, 2 contract, security instrument, or other instrument affecting the 3 transfer or sale of, or any interest in, real property, and any 4 provision of a governing document of a housing development or 5 association that effectively prohibits or restricts the 6 installation or use of a solar energy system is void and 7 unenforceable: Provided, That in instances involving a housing development or association, an association may, by vote of its 8 members, establish or remove a restriction that prohibits or 9 10 restricts the installation or use of a solar energy system. 11 (b) For the purposes of this section:

12 <u>(1) "Solar energy system" means a system affixed to a building</u> 13 <u>or buildings that uses solar devices, which are thermally isolated</u> 14 <u>from living space or any other area where the energy is used, to</u> 15 <u>provide for the collection, storage, or distribution of solar</u> 16 <u>energy; and</u>

17 (2) "reasonable restriction" means those restrictions that do 18 not effectually result in a prohibition of their use by eliminating 19 the system's energy conservation benefits or economic practicality. 20 (c) This section does not apply to provisions that impose 21 reasonable restrictions on solar energy systems including 22 restrictions for historical preservation, architectural 23 significance, religious or cultural importance to a given 24 community. Nothing in this section precludes the regulation of

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1	solar energy systems by state and local authorities which may
2	establish land use, health and safety standards. Nothing in this
3	section precludes home associations, condominiums or unit
4	properties from restricting or limiting the installation of solar
5	energy systems installed in common areas and common structures.
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